

## RE: EMJ Removal Action Schedule and Tribal Coordination Requirements

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GS

Glen St. Amant &lt;Glen@muckleshoot.nsn.us&gt;

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Thu 5/1/2014 7:57 AM

**To:** Chu Rebecca;

You replied on 5/1/2014 8:07 AM.

Hi Rebecca,

Thank you for your email. Provided that the EMJ Removal Action is completed in a timeframe to avoid any impacts to Tribal fishing, it is my understanding that no formal agreement would be required.

Regards,

Glen St. Amant  
Habitat Program Manager  
Muckleshoot Indian Tribe Fisheries Division  
(253) 876-3130 

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From: Chu Rebecca [Chu.Rebecca@epa.gov]  
Sent: Tuesday, April 29, 2014 3:45 PM  
To: Glen St. Amant  
Cc: Blocker, Shawn  
Subject: EMJ Removal Action Schedule and Tribal Coordination Requirements

Hi Glen

Please read through the attached email from EMJ regarding the tribal coordination component of this project. EMJ is committed to completing its work prior to the onset of the tribal fishery, which, based on tribal input, will start at the earliest on September 7, 2014. EMJ has also stated that you have committed to providing them notification 30 days prior to the onset of the tribal fishery, which will provide them additional time in the event the fishery starts after September 7, 2014. As EPA understands, because EMJ is avoiding impacts to the tribal fishery, there is no need for a formal agreement between EMJ and the Muckleshoot Tribe for the purposes of the Jorgensen Forge Early Action Area Removal Action.

EMJ's email also discusses what steps it will take in the event its work is not completed by the onset of the tribal fishery. EPA has determined that, in the event there are no means to continue the removal activities without impacting the tribe's fishery, EPA will require EMJ to cease in water construction for the remainder of the fishery season. EPA expects that the tribal fishery season would end around December 2014. Under this scenario, EPA would require EMJ to resume the in water work after the end of the fishery (approximately December 2014) and complete this work prior to March 1st, 2015.

I need a response from you if EPA's understanding that no formal agreement is required is correct, and if

the mechanisms identified here to avoid impacts to the tribal fishery is sufficient for your purposes of coordination on the upcoming removal action. Once I have a response from you, I will then reach out to EMJ to articulate EPA's determination of how it will respond where the removal activities cannot continue without impacts to the tribal fishery.

Thanks

Becky

Rebecca Chu | Remedial Project Manager  
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From: Amy Essig Desai [<mailto:aedesai@farallonconsulting.com>]  
Sent: Friday, April 25, 2014 8:54 AM  
To: Chu Rebecca  
Cc: Gilbert Leon ([gleon@emjmetals.com](mailto:gleon@emjmetals.com)); Dyer, Miles ([mdyer@JorgensenForge.com](mailto:mdyer@JorgensenForge.com))  
([mdyer@JorgensenForge.com](mailto:mdyer@JorgensenForge.com)); William Joyce; Ian Sutton; 'David  
Templeton' ([dtempleton@anchorqea.com](mailto:dtempleton@anchorqea.com)); Ryan Barth  
Subject: EMJ Removal Action Schedule and Tribal Coordination Update

Becky,

EMJ has updated its Removal Action construction schedule to reflect a July 10 commencement of work within the coffer dam that was approved by the U.S. Environmental Protection Agency (EPA) on April 21, 2014. EMJ's Removal Action schedule has been developed based on prior discussions with the Muckleshoot Indian Tribe (Tribe) and EPA. EMJ and its contractor have developed the Removal Action construction schedule to accommodate the Tribe's fishing season by completing the in-water portion of the work by September 6, 2014. The Tribe has established that its fishing season will begin no earlier than September 7, 2014. The Tribe will provide EMJ with approximately 30 days advance notice of when it will commence fishing be it on September 7, 2014 or on a later date. EMJ will continue to coordinate with the Tribe as August 2014 approaches to determine when the actual date the fishing season will begin. If the start of the Tribe's fishing season is delayed beyond September 7, 2014, and it is necessary for EMJ to perform Removal Action work beyond that date (an event we believe is unlikely), EMJ will coordinate with the Tribe and proceed with the remaining Removal Action work until the Tribe begins actively fishing.

EMJ and its contractor are committed to completing in-water work by September 6, 2014 and intend to avoid impacts to the Tribe's fishery. In the unlikely event that the Removal Action is not completed by September 6, 2014 and the Tribe commences with fishing on September 7, 2014, EMJ will make all reasonable efforts with the Tribe to avoid impacts during the start of the Tribe's fishing season. EMJ does not, however, expect to receive a stop work order from EPA should the remaining removal action work continue beyond the start of fishing season.

Please let me know if you have any questions.

Thanks,  
Amy